IX. DISTRICT RULES

According to Ohio Revised Code Section 3734.53(C), "the solid waste management plan of a county or joint district may provide for the adoption of rules under division (G) of section 343.01 of the Revised Code after approval of the plan under section 3734.521 or 3734.55 of the Revised Code." The District reserves the authority for the Board to adopt rules under the provision of Ohio Revised Code.

The following summarizes the current and existing rules of the District:

A. Existing Rules

Rule 1.01

No person, as that term is defined in Section 1.59 of the Ohio Revised Code, or municipal corporation, or township or other political subdivision or agency thereof, shall construct any solid waste transfer facility or disposal facility until general plans and specifications for the proposed construction have been submitted to and approved by the Policy Committee of the Holmes County Solid Waste Management District, as complying with the District's solid waste management plan.

B. Proposed Rules

The District reserves the right to adopt rules under division (G) of section 343.01 and under division (c) of section 3734.53 of the Revised Code. Such rules shall comply with the legislative grant of authority to the District to promulgate such rules and to regulate solid waste services, facilities and operation of the District in accordance with the Plan or amended Plan of the District and/or as authorized by applicable statutes, governmental regulations, local ordinances and rules of the District as now existing or hereafter enacted or amended.

Rule Making Authority - ORC 343.01

The solid waste management plan provides the authority to the Board of Directors to adopt, publish, and enforce all of the rule-making powers authorized by Ohio Revised Code 343.01, Divisions (G)(1), (G)(2), (G)(3) and (G)(4) including the following:

ORC 343.01(G)(1)

To the extent authorized by the solid waste management plan of the district approved under section 3734.521 or 3734.55 of the Revised Code or subsequent amended plans of the district approved under section 3734.521 or 3734.56 of the Revised Code, the board of county commissioners of a county district or board of directors of a joint district may adopt, publish, and enforce rules doing any of the following:

(1) Prohibiting or limiting the receipt of solid wastes generated outside the district or outside a service area prescribed in the solid waste management plan or amended plan, at facilities covered by the plan, consistent with the

projections contained in the plan or amended plan under divisions (A)(6) and (7) of section 3734.53 of the Revised Code, except that the director of environmental protection may issue an order modifying a rule adopted under division (G)(1) of this section to allow the disposal in the district of solid wastes from another county or joint solid waste management district if all of the following apply:

(a) The district in which the wastes were generated does not have sufficient capacity to dispose of solid wastes generated within it for six months following the date of the director's order;

(b) No new solid waste facilities will begin operation during those six months in the district in which the wastes were generated and, despite good faith efforts to do so, it is impossible to site new solid waste facilities within the district because of its high population density;

(c) The district in which the wastes were generated has made good faith efforts to negotiate with other districts to incorporate its disposal needs within those districts' solid waste management plans, including efforts to develop joint facilities authorized under section 343.02 of the Revised Code, and the efforts have been unsuccessful;

(d) The district in which the wastes were generated has located a facility willing to accept the district's solid wastes for disposal within the receiving district;

(e) The district in which the wastes were generated has demonstrated to the director that the conditions specified in divisions (G)(1)(a) to (d) of this section have been met;

(f) The director finds that the issuance of the order will be consistent with the state solid waste management plan and that receipt of the out-of-district wastes will not limit the capacity of the receiving district to dispose of its in-district wastes to less than eight years. Any order issued under division (G)(1) of this section shall not become final until thirty days after it has been served by certified mail upon the county or joint solid waste management district that will receive the out-of-district wastes.

ORC 343.01(G)(2)

Governing the maintenance, protection, and use of solid waste collection or other solid waste facilities located within its district. The rules adopted under division (G)(2) of this section shall not establish design standards for solid waste facilities and shall be consistent with the solid waste provisions of Chapter 3734. of the Revised Code and the rules adopted under those provisions. The rules adopted under division (G)(2) of this section may prohibit any person, municipal corporation, township, or other political subdivision from constructing, enlarging, or modifying any solid waste facility until general plans and specifications for the

proposed improvement have been submitted to and approved by the board of county commissioners or board of directors as complying with the solid waste management plan or amended plan of the district. The construction of such a facility shall be done under the supervision of the county sanitary engineer or, in the case of a joint district, a county sanitary engineer designated by the board of directors, and any person, municipal corporation, township, or other political subdivision proposing or constructing such improvements shall pay to the county or joint district all expenses incurred by the board in connection therewith. The sanitary engineer may enter upon any public or private property for the purpose of making surveys or examinations necessary for designing solid waste facilities or for supervising the construction, enlargement, modification, or operation of any such facilities. No person, municipal corporation, township, or other political subdivision shall forbid or interfere with the sanitary engineer or his authorized assistants entering upon such property for that purpose. If actual damage is done to property by the making of the surveys and examinations, a board shall pay the reasonable value of that damage to the owner of the property damaged, and the cost shall be included in the financing of the improvement for which the surveys and examinations are made.

"Governing the maintenance, protection, and use of solid waste collection or other solid waste facilities located within its district. The rules adopted under division (G)(2) of this section shall not establish design standards and shall be consistent with the solid waste provisions of Chapter 3734. of the Revised Code and the rules adopted under those provisions. The rules adopted under division (G)(2) of this section may prohibit any person, municipal corporation, township, or other political subdivision from constructing, enlarging, or modifying any solid waste facility under general plans and specifications for the proposed improvement have been submitted to and approved by the Board of County Commissioners . . . as complying with solid waste management plan or amended plan of the District. The construction of such a facility . . ."

ORC 343.01(G)(3)

Governing the development and implementation of a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's solid waste management plan or amended plan. A board of county commissioners or board of directors or its authorized representative may enter upon the premises of any solid waste facility included in the district's solid waste management plan or amended plan for the purpose of conducting the inspections required or authorized by the rules adopted under division (G)(3) of this section. No person, municipal corporation, township, or other political subdivision shall forbid or interfere with a board of county commissioners or directors or its authorized representative entering upon the premises of any such solid waste facility for that purpose.

ORC 343.01(G)(4)

Exempting the owner or operator of any existing or proposed solid waste facility provided for in the plan or amended plan from compliance with any amendment to a township zoning resolution adopted under section 519.12 of the Revised Code or to a county rural zoning resolution adopted under section 303.12 of the

Revised Code that rezoned or redistricted the parcel or parcels upon which the facility is to be constructed or modified and that became effective within two years prior to the filing of an application for a permit required under division (A)(2)(a) of section 3734.05 of the Revised Code to open a new or modify an existing solid waste facility.

Rule Making Authority - ORC 3734.53

The solid waste management plan provides the authority to the Board of Directors to adopt, publish, and enforce all of the rule-making powers authorized by Ohio Revised Code 3734.53, Division (C) including the following:

(1) Prohibiting or limiting the receipt at facilities covered by the plan of solid wastes generated outside the district or outside a prescribed service area consistent with the projections under divisions (A)(6) and (7) of this section, except that the director of environmental protection may issue an order modifying a rule authorized to be adopted under division (C)(1) of this section to allow the disposal in the district of wastes from another county or joint solid waste management district if all of the following apply:

(a) The district in which the wastes were generated does not have sufficient capacity to dispose of solid wastes generated within it for six months following the date of the director's order;

(b) No new solid waste facilities will begin operation during those six months in the district in which the wastes were generated and, despite good faith efforts to do so, it is impossible to site new solid waste facilities within the district because of its high population density;

(c) The district in which the wastes were generated has made good faith efforts to negotiate with other districts to incorporate its disposal needs within those districts' solid waste management plans, including efforts to develop joint facilities authorized under section 343.02 of the Revised Code, and the efforts have been unsuccessful;

(d) The district in which the wastes were generated has located a facility willing to accept the district's solid wastes for disposal within the receiving district;

(e) The district in which the wastes were generated has demonstrated to the director that the conditions specified in divisions (C)(1)(a) to (d) of this section have been met;

(f) The director finds that the issuance of the order will be consistent with the state solid waste management plan and that receipt of the out-of-district wastes will not limit the capacity of the receiving district to dispose of its in-district wastes to less than eight years. Any order issued under division (C)(1) of this section shall not become final until thirty days after it has been served by certified

mail upon the county or joint solid waste management district that will receive the out-of-district wastes.

(2) Governing the maintenance, protection, and use of solid waste collection, storage, disposal, transfer, recycling, processing, and resource recovery facilities within the district and requiring the submission of general plans and specifications for the construction, enlargement, or modification of any such facility to the board of county commissioners or board of directors of the district for review and approval as complying with the plan or amended plan of the district;

(3) Governing development and implementation of a program for the inspection of solid wastes generated outside the boundaries of the state that are being disposed of at solid waste facilities included in the district's plan;

(4) Exempting the owner or operator of any existing or proposed solid waste facility provided for in the plan from compliance with any amendment to a township zoning resolution adopted under section 519.12 of the Revised Code or to a county rural zoning resolution adopted under section 303.12 of the Revised Code that rezoned or redistricted the parcel or parcels upon which the facility is to be constructed or modified and that became effective within two years prior to the filing of an application for a permit required under division (A)(2)(a) of section 3734.05 of the Revised Code to open a new or modify an existing solid waste facility.

The District shall develop a rule to incorporate the language in the Siting Strategy in Section 6 into District Rule 1.01. The process to approve a new rule will begin no later than January 1, 2010.

The Board shall, at their discretion, determine whether the authority granted in Section 6 for flow control of source separated yard waste shall be enacted in District rules. The Board will adhere to the appropriate requirements of Ohio Revised Code 343.014 when enacting any flow control provisions.